



BellSouth Telecommunications, Inc.

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October 17, 2000

Guy M. Hicks

General Counsel

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EXECUTIVE SECRETARY

VIA HAND DELIVERY

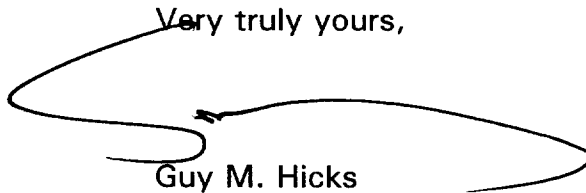
David Waddell, Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37238

Re: *Generic Docket to Establish UNE Prices for Line Sharing per FCC 99-355 and Riser Cable and Terminating Wire as Ordered in TRA Docket No. 98-00123*
Docket No. 00-00544

Dear Mr. Waddell:

Enclosed are the original and thirteen copies of the Response of BellSouth Telecommunications, Inc. to Data Coalition's Motion to Take Depositions. Copies of the enclosed are being provided to counsel of record for all parties.

Very truly yours,



Guy M. Hicks

GMH:ch
Enclosure

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
Nashville, Tennessee**

In Re: *Generic Docket to Establish UNE Prices for Line Sharing per FCC 99-355 and Riser Cable and Terminating Wire as Ordered in TRA Docket No. 98-00123*

Docket No. 00-00544

**RESPONSE OF BELL SOUTH TELECOMMUNICATIONS, INC.
TO DATA COALITION'S MOTION TO TAKE DEPOSITIONS**

BellSouth Telecommunications, Inc. ("BellSouth") respectfully submits that the Data Coalition's Motion to Take Depositions should be denied. Depositions are unnecessary in this proceeding. Moreover, the Motion is premature and violates the Hearing Officer's scheduling order.

The Motion states that "upon information and belief, the Data Coalition submits that the Coalition will not be able to obtain sufficient information concerning BellSouth's Operation Support Systems for line sharing without these depositions." (Motion at p. 1).¹ The Motion was filed with the Authority on October 13, 2000 – three days before BellSouth filed its written responses to Covad's voluminous discovery on October 16 in accordance with the schedule agreed to by the parties and approved by the Hearing Officer. Covad's written discovery included questions regarding the same issue -- the costs underlying BellSouth's Operation Support Systems for line sharing. (See October 4, 2000 Interrogatories Nos. 20, 21, 22, 23, 24, 25 and 26 and Production of Documents Requests Nos. 5, 6 and 7). The Data Coalition can hardly represent that

¹ A copy of the motion is attached as is the Affidavit of Guy M. Hicks.

depositions are necessary before even reviewing BellSouth's written discovery responses.

While in other proceedings before the Authority, parties have agreed to take depositions, the Authority has, to BellSouth's knowledge, never required parties to submit to depositions. The Data Coalition's assertion that "in similar proceedings in other jurisdictions, BellSouth has failed to produce at the hearing any witnesses who were competent to testify about this subject" is not a reasonable basis to impose depositions upon BellSouth in Tennessee. BellSouth has not even filed its testimony yet in this proceeding. BellSouth intends to proffer a witness competent to testify about this subject. Depositions, which can be time consuming and expensive, are not necessary, particularly at this juncture, when the Data Coalition has not even reviewed BellSouth's written discovery responses or testimony.

Moreover, BellSouth has agreed to make discovery responses filed in other 319 proceedings available to the parties and Staff. This offer, which was made by BellSouth in good faith and in an effort to minimize discovery issues and delays, included BellSouth's agreement to make deposition transcripts from other 319 cases available to the parties in Tennessee. (See Tr. of 8/3/00 Pre-Hearing Conference at p. 68).

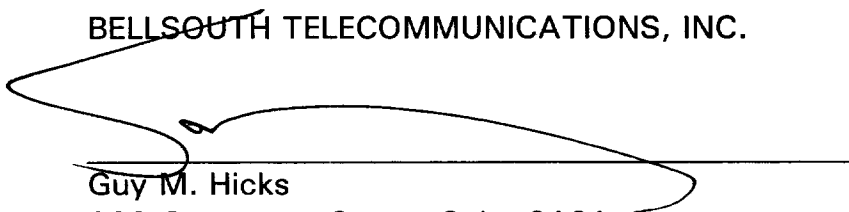
The Motion to Take Depositions also violates the spirit, if not the letter, of the Order of the Pre-Hearing Officer entered August 10, 2000. As stated in that Order, the parties agreed to a procedural schedule which included a schedule for the filing of discovery. During the discussion of the parties with the Hearing

Officer during the Pre-Hearing Conference of August 3rd, no party requested depositions. Indeed, depositions were not even mentioned and BellSouth believed that the discovery requests referenced in the schedule were intended to represent interrogatories and requests for documents. This is consistent with the Authority's general practice of not requiring depositions. It is also consistent with the language set forth in the Hearing Officer's Order that discovery requests shall be filed on October 13th and responses thereto shall be filed on or before the 10th day following the filing of the request. This language clearly contemplates the filing of written discovery as opposed to oral depositions. The Data Coalition made no attempt to resolve this discovery issue by agreement of the parties. Nor did the Data Coalition even ask BellSouth if it intended to proffer a witness competent to testify in this proceeding with respect to BellSouth's OSS for line sharing before filing its Motion.

For the foregoing reasons, the Motion to Take Depositions should be denied.

Respectfully submitted,

BELLSOUTH TELECOMMUNICATIONS, INC.



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Michael Twomey
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**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**


In re: Generic Docket To Establish UNE Prices)	
for Line Sharing Per FCC 99-355, and)	Docket No. 00-00544
Riser Cable and Terminating Wire as)	
Ordered in TRA Docket 98-00123)	

MOTION TO TAKE DEPOSITIONS

Intervenor, the Data Coalition, moves to take the depositions of an employee and of one or more subject matter experts of BellSouth Telecommunications, Inc. Upon information and belief, the Data Coalition submits that the Coalition will not be able to obtain sufficient information concerning BellSouth's Operation Support Systems for line sharing without these depositions. The cost of upgrading those support systems in order to support the offering of xDSL services is one of the most significant issues in this proceeding. In similar proceedings in other jurisdictions, BellSouth has failed to produce at the hearing any witnesses who were competent to testify about this subject. To avoid facing a similar situation in Tennessee, the Data Coalition is now asking BellSouth to identify those subject matter experts and to produce them, along with Tommy Williams, BellSouth's project manager for line sharing, for the purpose of giving depositions prior to the hearing. The Coalition believes that these depositions will provide the Authority with important and relevant information needed to decide

this case and will also allow the Authority to hear this matter in less time than would otherwise be required.

Respectfully submitted,

By: 

Henry Walker

Boult, Cummings, Conners & Berry, PLC

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Nashville, Tennessee 37219

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BEFORE THE TENNESSEE REGULATORY AUTHORITY
Nashville, Tennessee

In Re: *Generic Docket to Establish UNE Prices for Line Sharing per FCC 99-355 and Riser Cable and Terminating Wire as Ordered in TRA Docket No. 98-00123*

Docket No. 00-00544

AFFIDAVIT OF GUY M. HICKS

I, Guy M. Hicks, being first duly sworn, depose and state as follows:

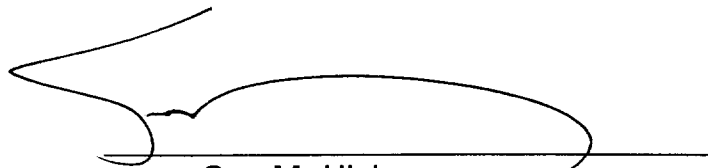
1. I am over eighteen years of age and have personal knowledge of the matters set forth herein.

2. I am an attorney licensed to practice law in the state of Tennessee and am employed by BellSouth Telecommunications, Inc. ("BellSouth") as General Counsel for the state of Tennessee.

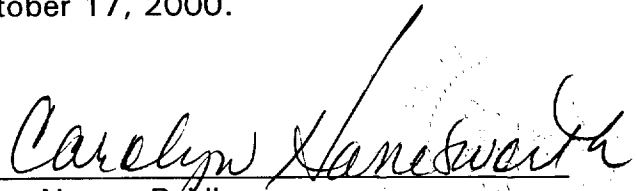
3. I represent BellSouth in the above-captioned case before the Tennessee Regulatory Authority ("Authority"). This affidavit is submitted in support of BellSouth's Response to Data Coalition's Motion to Take Depositions.

4. I affirm that this Response is filed in BellSouth's good faith belief that the Authority should deny the Data Coalition's Motion for Depositions.

FURTHER AFFIANT SAID NOT.


Guy M. Hicks

Sworn to and subscribed before me on October 17, 2000.



Notary Public

My Commission Expires:

1.27.2001

CERTIFICATE OF SERVICE

I hereby certify that on October 17, 2000, a copy of the foregoing document was served on the parties of record, via the method indicated:

☒ Hand
☒ Mail
☐ Facsimile
☐ Overnight

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Joshua M. Bobeck
Swidler Berlin, et al.
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Washington, DC 20007-5116

A handwritten signature in black ink, appearing to be "Jon E. Hastings", written over a horizontal line.